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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/788,497	02/21/2001	Naoki Miyano	0717-0459P	6768

2292 7590 01/18/2005

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EXAMINER

KIBLER, VIRGINIA M

ART UNIT PAPER NUMBER

2623

DATE MAILED: 01/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/788,497

Applicant(s)

MIYANO ET AL.

Examiner

Virginia M Kibler

Art Unit

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 December 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 12/27/04 have been fully considered but they are not persuasive.

Summary of Applicant's Argument: Watkins does not disclose an image synthesis apparatus in which "a three-dimensional thermal image and a three-dimensional visible light image are observed by an observer as overlapping each other," as recited in claim 1. The three-dimensional thermal image and visible light image in the present invention are not overlapped, but are observed by an observer with a perception as overlapping each other. Neither Watkins nor Higuchi disclose "a slit device including a plurality of slits" and an "infrared directing device for direction infrared toward a subject through the slit device," as recited in claim 10.

Examiner's Response: Watkins discloses a right infrared camera and a left infrared camera, a right visible light camera and a left visible light camera as shown in Figure 1 (Col. 2, lines 13-43). Watkins further discloses an image synthesis apparatus for synthesizing data output from the right infrared camera and the left infrared camera and data output from the right visible light camera and the left visible light camera so that a 3-D thermal image and a 3-D visible light image are observed by an observer as overlapping each other (Col. 2, lines 44-67; Abstract). Watkins further discloses overlaying registered stereo pair imagery from the right/left infrared cameras and the right/left visible light cameras (Abstract; Col. 2, lines 32-35), or in other words, synthesizing data output from the right and left infrared cameras creating a 3D thermal image and synthesizing data output from the right and left visible light cameras creating a 3D visible light image and overlapping them.

While Applicant indicates that the three-dimensional thermal image and visible light image in the present invention are not overlapped, the claimed language does not exclude the images being overlapped. A three-dimensional thermal image overlapped with a three-dimensional visible light image meet the claimed language of being “observed by an observer as overlapping each other” as broadly as claimed.

Watkins does not recognize using a slit device including a plurality of slits and an infrared directing device for directing infrared toward a subject through the slit device. However, Higuchi et al. (“Higuchi”) discloses that it is known to use a slit device and an infrared directive device for directing infrared toward a subject through the slit device (Col. 1, lines 17-31). The combined teachings of Watkins and Higuchi meet the claim language of claim 10. Watkins and Higuchi are combinable because they are from the same field of three-dimensional imaging. At the time of the invention, it would have been obvious to one of ordinary skill in the art to have modified the infrared device disclosed by Watkins to include a slit device as taught by Higuchi. The motivation for doing so would have been because it is well known and routinely utilized in 3-D imaging. Therefore, it would have been obvious to combine Watkins with Higuchi to obtain the invention as specified in the claim 10.

### ***Contact Information***

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Virginia M Kibler whose telephone number is (703) 306-4072. The examiner can normally be reached on Mon-Thurs 8:00 - 5:30 and every other Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Virginia Kibler can be reached on (703) 306-4072. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Virginia Kibler  
1/13/05

**MEHRDAD DASTOURI**  
**PRIMARY EXAMINER**

